

## **REMARKS**

The Final Office Action mailed November 2, 2005 has been carefully reviewed. On the basis of the following amendments and remarks, reconsideration of the claim rejections and allowance of all of the presently pending claims are respectfully requested.

### **The Claims**

Claims 1-29 are pending.

Claims 26-29 are allowed.

The following amendments have been made to place the remaining claims into condition for the issuance of a Notice of Allowance:

Claim 1 has been amended to clarify the fact that, unlike the applied prior art wherein one type of malleable material is employed, the invention employs a ***combination of wet foam and preformed rigid foam***, the wet foam securing decorative elements and being supported on the preformed rigid foam in order to form a decorative structure which not only supports decorative elements, but is itself formed into a ***decorative structure which is readily visible***.

Claims 3 and 15 have been rewritten in the manner indicated by the Examiner as being allowable.

Claims 5, 11, 12, and 18 have been cancelled, without prejudice, because to amend these claims as suggest by the Examiner would result in claims identical to Claims 26-29, which are already allowed.

### **The Invention**

The present invention has provided a unique method for making a decorative arrangement by providing a wet foam, partially curing the wet foam to create a nodule as defined at Page 5, Line 22 of the Specification. The nodule, as an integral part of the completed arrangement, is at least partially ***readily visible***. (Page 10, Lines 11-12 of the Specification). Accordingly, contrary to known decorative arrangements, the instant foam is ***formed into a desired shape, the structure of which is decorative because it is intentionally readily visible***. (See, for example, Figures 14 and 15, and the corresponding disclosure at Page 10, Lines 5-7 describing the nodule as having, for example and without limitation, a charred decorative structure which replicates wood). Also unlike the known art, the invention employs a combination of ***wet foam and preformed rigid*** foam wherein prior to the wet foam (as defined on Page 7, Lines 11-12 of the Specification) becoming rigid foam, a plurality of decorative elements are secured therein and it is supported on preformed rigid

foam. A support container (as defined in the Specification at Page 11, Lines 10-15) can be placed in supporting underlying relationship with respect to the preformed rigid foam.

### **ALLOWABLE SUBJECT MATTER**

Claims 3 and 15 are hereby rewritten in independent form to include all of the limitations of their respective base claims and any intervening claims, in the manner stated by the Examiner to be allowable.

Claims 5, 11, 12, and 18 have been cancelled because to amend these claims as suggested by the Examiner would result in claims identical to Claims 26-29, which are already allowed.

### **Claims 1, 2, 4, 6-10, 12-14, 16, 17 and 19-25: Rejected Under 35 U.S.C. 103(a)**

Claims 1, 2, 4, 6-10, 12-14, 16, 17 and 19-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurensen (FR 2454752) in view of Applicant's Admitted Prior Art (AAPA).

In addition to the distinctions set forth in Applicant's amendment of August 15, 2005, none of the applied prior art, whether considered individually or in combination, teaches or suggests the *combination of wet foam and preformed rigid foam* in the manner taught by the invention. In fact, as will be discussed herein, such prior art teaches away therefrom. Furthermore, the prior art fails to teach or suggest, but in fact teaches away from the foam being formed to have a *decorative structure which is readily visible*.

Specifically, Laurensen, at best, teaches the use of a single type of "malleable material" for use in making flower arrangements. The Examiner's comments at Page 2, Section 2 of the November 2, 2005 Office Action that "wet foam materials that harden into rigid foam are old and well known in the art," and "rigid foams are widely used in the floral industry," merely make note of two isolated teachings of the prior art which fail to teach or suggest the claimed combination of two types of foam (*i.e.*, wet foam which subsequently hardens, and preformed rigid foam) wherein decorative elements are secured in the wet foam prior to its drying, and the wet foam is supported on preformed rigid foam. In fact, the prior art teaches away therefrom either by being limited to a single kind of foam or by teaching away from securing decorative elements to the wet foam before it dries, as claimed. This view is confirmed by the fact that Applicant expressly defines "*wet foam*" and "*preformed rigid foam*" as being two distinct materials at Page 7, Lines 11-12 and Lines 16-19, respectively.

Additionally, the Laurensen reference clearly fails to teach or suggest the foam being formed into the *decorative and readily visible structure* of the invention and, in fact, the

arbitrarily shaped, substantially hidden material taught by Laurenson teaches away therefrom. Specifically, Laurenson teaches the material being covered and substantially hidden from view by either a plastic wrap 5 (see, for example, Figures 1-3, and 6), a plate 6 (Figure 5), containers (Figures 7-10), or a combination thereof (Figures 4, 5, 6, and 10). In this regard, the Examiner at Page 7, first full Paragraph incorrectly states that Figure 5 “clearly shows the malleable material disposed in a readily visible position.” It is respectfully submitted that the Examiner has failed to note the plate 6 which overlies and covers the material. In any event, the Laurenson reference clearly fails to teach or suggest the foam of the invention, which is formed into a ***decorative and readily visible structure***. Conversely, the arbitrarily shaped, substantially hidden material taught by Laurenson teaches away therefrom. This view is further supported by Applicant’s Figures 16-21 and the corresponding disclosure which describes, for example, the foam being formed into a highly visible decorative structure which replicates a dessert.

Independent Claim 1 has been amended to clarify the foregoing distinction by reciting, *inter alia*, forming the nodule ***to have a decorative structure which is readily visible***. It is, therefore, submitted that Claim 1, as amended, is patentable over the prior art applied.

Claims 14, 17 and 20-22 depend from amended independent Claim 1 and through such dependency, are also patentable over the references. Claims 20-22 are not separately asserted to be patentable apart from their dependency on Claim 1. Claims 14 and 17 are further patentable over the references for the following reasons.

Claim 14 further addresses the readily visible distinction of the invention. Specifically, surface mounting of a “decorative element” as defined in Applicant’s specification, in order that it is readily visible is not taught or suggested but in fact taught away from by the prior art which teaches the material being substantially covered (see, for example, Figure 5 wherein the malleable material is covered by plate 6).

With regard to Claim 17, as previously discussed, the applied prior art does not teach or suggest the ***combination of wet foam and preformed rigid foam*** as claimed by the invention, or such wet foam being partially supported on the preformed rigid foam. Conversely, the applied references clearly contemplate use of only one type of malleable setting material. Additionally, the malleable material is either supported by a plurality of nails, wrapped in plastic, sandwiched between plates (Figure 5), or disposed within a box, for support.

Claims 2, 4, 7 and 10 also depend from amended independent Claim 1 and through such dependency, are also patentable over the applied art. These claims are further patentable because the applied art clearly teaches a single malleable material which is covered or supported in at least one of the following ways: supported by a plurality of nails, wrapped in plastic, sandwiched between plates (Figure 5), or disposed within a box.

Furthermore, regarding Claim 10, since the references whether taken alone or in combination, do not teach or suggest the combination of wet foam and preformed rigid foam, they certainly do not teach or suggest the further recital of the wet foam on the rigid foam without any underlying supporting container.

Claim 12 has been cancelled.

Claims 13, 16, 19 and 23 depend directly or indirectly from amended independent Claim 1 and through such dependency, are also patentable over the references.

Additionally, with respect to Claim 23, there is no teaching or suggestion in Laurenson or in the disclosed prior art whether considered individually or in combination, of the recited drying temperature and time period recited. Regarding Claim 24, the applied references do not teach or suggest the subsequent application of additional wet foam. Conversely, such references teach away from subsequent application of additional wet foam by requiring the “malleable material” to be wrapped or otherwise covered as taught by Laurenson (see, for example, Figure 5 wherein the malleable material is covered by plate 6).

With regard to Claim 25, the Examiner directs Applicant’s attention to Laurenson Figure 5. Laurenson Figure 5, however, clearly shows the “malleable material” being covered by plate 6 and, therefore, expressly teaches away from the nodule forming a *decorative structure which is readily visible*, such as, for example in the simulated dessert arrangement of the invention (See, Figure 20 and the corresponding disclosure).

**Claim 6: Rejected Under 35 U.S.C. 103(a)**

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to Claim 2 above, and further in view of Hillenbrand (U.S. Patent 4,044,502).

Hillenbrand, which discloses a container having a socket and strap assembly for holding a block of flower holding material adds nothing to Laurenson/AAPA to render the instant invention obvious. Hillenbrand, like the other applied art, fails to teach or suggest the combination of two different types of foam (i.e., wet foam and preformed rigid foam) of the invention. As such, Claim 6, which depends indirectly from amended independent Claim 1 is also patentable.

**Claims 8 and 9: Rejected Under 35 U.S.C. 103(a)**

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurenson/AAPA as applied to claim 7 above, and further in view of Harris (U.S. Patent 4,941,572).

Claims 8 and 9 depend, directly or indirectly from amended independent Claim 1 and through such dependency, are also patentable. Claim 8 is not separately asserted to be patentable apart from such dependency.

With regard to Claim 9, the Examiner at page 5, first full Paragraph states that the particular shape of the arrangement lends no patentable weight to the method being claimed. The amendment to Claim 1, from which Claim 9 depends, was made to clarify the apparent misunderstanding on this point. Specifically, it is not the particular shape that is particularly relevant, but the claimed step of *the foam being formed into a decorative structure which is readily visible*. This process/method, regardless of the end product or shape it produces, is a patentable distinction over the prior art. More specifically, the prior, which discloses a substantially covered or hidden material having an arbitrary shape, teaches away from the claimed formation of a decorative structure which is readily visible. (See, for example, Figure 5 of Laurenson wherein the material is covered by plate 6).

In view of the foregoing, reconsideration and allowance of all of the pending claims, Claims 1-4, 6-10, and 14-29, is requested.

### MISCELLANEOUS

The prior art made of record, but not relied on, has been reviewed, but is not believed to be more relevant than the applied art.

### SUMMARY AND CONCLUSIONS

Claims 26-29 have been allowed.

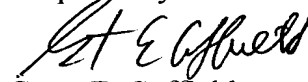
Claims 3 and 15 were rewritten in independent form to include all of the limitations of the rejected base claim and any intervening claims, in the manner stated by the Examiner to be allowable and are, therefore, also allowable.

Claims 5, 11, 12, and 18 have been cancelled because to amend these claims as suggest by the Examiner would result in claims identical to Claims 26-29, which are already allowed.

It is submitted that independent Claim 1, as amended, is patentable over the applied art, whether considered individually or in combination. Claims 2, 4, 6-10, 13-14, 16-17, and 19-25 depend directly or indirectly from amended Claim 1 and through such dependency, are also allowable.

Accordingly, it is submitted that the application is now in proper form for issuance of a Notice of Allowance. Such action is respectfully requested at an early date.

Respectfully submitted,



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